

Faith-Based Initiative

Introduction

In 1996, with the enactment of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA), the federal government established "charitable choice" provisions that allowed, for the first time, faith-based organizations (FBOs) to compete for state and federal Temporary Assistance for Needy Families (TANF) funds on the same basis as secular providers. The charitable choice provisions broke new ground in that they allow pervasively religious groups to receive these funds directly (De Vita and Wilson, 2001).

Charitable choice was subsequently expanded to include the Welfare to Work grants program, the Community Services Block Grant and some Substance Abuse and Mental Health Services Administration programs. President George W. Bush has made it the centerpiece of his administration's social services policy (Haber Kern, 2002). In his 2003 State of the Union Address, the President called for a \$600 million increase in federal treatment funding over the next three years to help addicted Americans find needed treatment from the most effective programs, including faith-based institutions. This review will discuss issues related to national implementation of the charitable choice faith-based initiative.

The power of spirituality to assist individuals in overcoming alcohol and other drug problems is well recognized in the treatment community. Faith in a higher power has been a central feature of Alcoholics Anonymous since its beginnings in the 1930s. A recent study by the National Center on Addiction and Substance Abuse at Columbia University found that "God, religion and spirituality are key factors for many in prevention and treatment of substance abuse and in continuing recovery," and that, "Adults who do not consider religious beliefs important are more than one and one-half times likelier to use alcohol and cigarettes, more than three times likelier to binge drink, almost four times likelier to use an illicit drug other than marijuana and more than six times likelier to use marijuana than adults who strongly believe that religion is important (The National Center on Addiction and Substance Abuse at Columbia University, 2001)."

Religious organizations have a long track record of involvement in social causes. John J. Dilulio, Jr., former director of President Bush's Office of Faith-Based and Community Initiatives, has described the multiple levels on which religion may benefit individuals. He defines "organic religion" as belief in God and regular attendance of services at a traditional place of worship. "Programmatic religion" refers to participation in social programs operated by organizations with a religious affiliation. Communities are also served through what Dilulio calls "ecological religion". In some communities, particularly areas of poverty, religious organizations may be the primary institutions of social stability still in place at the local level, with a positive impact that goes beyond those whom they serve directly (Dilulio, 2002). Supporters argue that, with their experience in providing social services and their infrastructure in place connected to the communities most in need, providing support to faith-based organizations is an efficient way to bring needed additional resources to bear on a range of social ills.

Faith-based organizations are generally classified into two major categories: sectarian or pervasively religious organizations, such as churches, temples or mosques, and non sectarian, secular organizations created by a religious organization to provide social services, such as Jewish Family Services or Catholic Charities USA. While there is a long history of cooperation between the federal government and religious organizations in addressing social issues, funding in the past typically flowed to these affiliated, non-profit entities.

Charitable choice legislation was predicated on three assumptions: the faith-based community contains significant untapped resources, FBOs face unnecessary barriers in partnering with government agencies and FBOs are more effective service providers than secular organizations.

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Now, under the new charitable choice provisions, sectarian FBOs receiving funds are not required to separate their religious nature from their social service activities. Indeed, this religious nature is viewed as a critical component contributing to program effectiveness. They may display religious symbols, for example and may discriminate in their hiring practices on religious grounds. They are, however, prohibited from discriminating against beneficiaries in delivering services, are subject to the same audit regulations as other organizations and may not use public funds for the purpose of worship or proselytizing. This last restriction creates challenges for organizations that tend to commingle resources.

Charitable choice provisions require states and localities to allow religious organizations to compete for and receive federal funding on the same basis as any other provider. They also prohibit States and localities from requiring an FBO to change its form of governance or remove religious art or symbols (GAO, 2002). However, should a beneficiary of services object to the religious nature of a provider, the state or locality must make available an alternative, non-religious provider.

A survey conducted by the Pew Research Center for the People and the Press documented support for government funding of faith-based organizations (75% of those surveyed were in favor of such funding) but pointed to real differences of opinion on operational issues. Only 38% were in favor of providing funds to Buddhist temples or mosques, and only 18% favored allowing government-funded groups to only hire people of the same faith. If the faith-based initiative is to successfully tap into the resources and strengths of the faith community, these and other issues must be discussed and resolved (Pew Research Center for the People and the Press, 2001).

Points of Contention

Disagreement over the implementation of charitable choice provisions at the congressional level is reflected in President's limited success in enacting further legislation. While President Bush has tried to get Congress to further implement the faith-based initiative since taking office, opposition based on such concerns has killed such legislation, forcing Bush to continue implementation through regulatory changes. The final rule regarding Charitable Choice Provisions for Department of Health and Human Services programs was issued on September 30, 2003 (Marus, 2003).

While many critics of charitable choice object on the grounds of separation of church and state, the separation is “much less firm than generally thought.” (De Vita and Wilson, 2001). A number of Supreme Court decisions (*Emerson v. State Board* 1947, *Agostini v. Felton* 1997, *Mitchell v. Helms* 2000) have supported the provision of public funds to religious groups. While the First Amendment is not a clear barrier to the implementation of charitable choice, there are a number of specific legal questions that cause concern.

The term “faith-based organization” is not well defined in the legislation or regulatory language. As shown in the Pew Research Center survey there is hesitancy among some to fund any groups outside the religious mainstream. There is concern that funding will be channeled primarily to Judeo-Christian faiths to the exclusion of other groups.

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Critics are also uncomfortable with the provision that allows FBOs to discriminate in their hiring practices based on religion, possibly allowing an erosion of anti-discrimination laws won in the civil rights movement. In 2002, Aimee Bellmore and Alan Yorker filed suit in the Superior Court of Fulton County, Georgia over being

denied employment at the taxpayer-funded United Methodist Children’s Home because they didn’t adhere to its religious beliefs. The settlement reached in November 2003 committed the Georgia Department of Social Services to prohibit such practices in funded programs (Lambda Legal, 2003). The Charitable Choice Research Project has recommended that faith-based contractors look to this agreement for guidance regarding hiring practices (Center for Urban Policy and the Environment, 2003).

Also of concern is the prospect of granting waivers to FBOs for costly requirements, such as licensure regulations or requirements for staff credentialing. Such waivers may undermine program safety and standards of quality. Many faith-based groups may lack the capacity in terms of infrastructure and experience to meet funding requirements for accountability. Such programs typically rely heavily on volunteers. Resources may be particularly limited in lower income neighborhoods, where the need for services is the greatest.

In addition to these concerns, there is the question of available resources. Currently, administration budget proposals have only modest increases in funding. This means that FBOs will be competing with existing providers for limited resources. Overall, there is a real shortage of methodologically sound documentation of the effectiveness of these programs. The National Congregations Study and the Charitable Choice Research Project are two studies that may provide some useful information as implementation moves forward, as does the experience of charitable choice in Texas.

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National Congregations Study

One perspective on the extent to which FBOs might take advantage of these funding opportunities can be gained by reviewing the results of the National Congregations Study. This 1998 survey used key informant interviews from a nationally representative sample of 1,236 congregations and explored how religious organizations provide social service programs.

The results lead to several conclusions. Large congregations, congregations that are politically and theologically liberal and African-American congregations appear to be the most likely to pursue public funds to support social programs. This finding is particularly interesting in light of the fact that conservative groups are the most vocal supporters of the faith-based initiative on the national level.

Groups are more likely to provide short term, small-scale relief rather than operate large scale programs. Programs are more likely to involve small, well-focused volunteer participation in well-defined periodic tasks. Only 2% of the participating congregations reported any involvement in substance abuse treatment services.

While a majority of congregations report some involvement in social programming, only a small minority is involved to the extent that they operate their own programs, have at least .25 FTE staff positions dedicated to the activity, or fund it at a significant level. While this percentage is small, it still reflects a significant level of programming, roughly 1,500 out of the 300,000 congregations in the United States (Chaves, 1999).

Charitable Choice Research Project

The Charitable Choice Research Project, conducted by the Center for Urban Policy and the Environment at Indiana University with funding from the Ford Foundation, evaluated implementation of Charitable Choice provisions in three states - Massachusetts, North Carolina and Indiana. The study focused on three elements: the capacity of faith-based organizations to deliver and states to monitor the identified

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services, constitutional and fiscal accountability for resources, outcomes and processes, and adherence to First Amendment boundaries between church and state. Selected highlights of the report include the following:

In attempting to remove barriers, States differed significantly in their approaches. Indiana employed for-profit consultants to recruit providers. North Carolina used a statewide nonprofit to

contract for and manage a series of demonstration projects. Massachusetts felt that recent reforms to its procurement policies placed them in compliance with the law. In all three states, relatively few FBOs have become contractors.

Analysis of secondary data indicates that FBOs are somewhat less effective in providing job training and placement services compared to secular organizations. FBOs and secular providers have the same rates of placement in jobs and the jobs have similar hourly wages. However, clients of faith-based programs work fewer hours on average and are less likely to be offered health insurance.

In comparing secular, moderately faith-influenced and strongly faith-influenced organizations, the study made a number of observations on the impact of participation in charitable choice. They found the organizational networks of the strongly influenced groups to be the weakest. Over half of the strongly influenced organizations reported that participation affected their missions. Moderately influenced organizations faced fewer management challenges than secular or strongly influenced groups.

Congregational leaders lack the constitutional knowledge to insure appropriate implementation. States lack the resources to monitor compliance (Center for Urban Policy and the Environment, 2003)

The Texas Experience

As governor of Texas, George W. Bush moved enthusiastically to implement charitable choice. The experience of charitable choice there provides some cautions as national implementation proceeds. Four months after the provision was enacted, Governor Bush issued an executive order directing agencies to “(1) take all necessary steps to implement the ‘charitable choice’ provision of the federal welfare law; and (2) take affirmative steps prescribed by the Act to protect the religious integrity and the functional autonomy of participating faith-based providers... [and] file a written report with the Office of the Governor on the implementation status of the ‘charitable choice’ provisions” within six months of the executive order.

The Governor then created an almost exclusively Christian task force on faith-based programs and charged it with two objectives: to identify laws and regulations that impede the work of faith-based

groups and to recommend ways to lift some of those regulations. Following up on this group's recommendations, the Texas legislature passed provisions focused on deregulating faith-based programs and making more funds available to them. One provision established an alternative accreditation system that allowed faith-based entities to authorize faith-based children's homes and child-care facilities instead of submitting to licensure and regulation by the state. Another allowed faith-based substance abuse treatment programs to be exempt from state licensure and regulation.

Any faith-based substance abuse treatment center could register with the Texas Commission on Alcohol and Drug Abuse and be exempt from all standards and regulations applied to state licensed facilities. The program had only to submit the appropriate form and be added to the list of exempt facilities.

After five years of implementation, critics point to a system that is "unregulated, prone to favoritism and commingling of funds and even dangerous for the people it was supposed to serve... loosening regulations on faith-based providers created a refuge for facilities with a history of regulatory violations, a theological objection to state oversight and a higher rate of abuse and neglect. Lax regulations endangered people in need and lowered standards of client health, safety, and quality of care, with some physical diseases going medically untreated (Texas Freedom Network, 2001). The scope of the problems was such that it caused the Texas legislature to rethink the approach and, in 2001, they chose not to renew the state's alternative accreditation program.

In addition, many feel that regulatory changes resulted in preferential treatment for faith-based programs. Policy changes, regional liaisons directing targeted outreach efforts and funding set-asides went beyond creating a level playing field to creating a system slanted in favor of FBOs.

Conclusions

The points made above have several implications for how best to expand the role of faith-based organizations in social services. Most FBOs have limited staff resources, hence, providing information and training on funding opportunities and program administration will greatly enhance their chances of receiving support and successfully managing a contract or grant.

A key feature of charitable choice is the flexibility in making funding available to religious organizations with out forcing them to loose their religious character. However, there are still restrictions against the use of public funds to support worship. Particular emphasis should be given to training of provision requirements relative to non-proselytizing. While the law does provide for direct funding to religious organizations, the traditional non-profit affiliate model has several advantages in terms of tracking funds and separating the religious and social service components. Another positive feature would be to encourage funding through community-based ecumenical coalitions to ensure the involvement of a wide range of faiths (Pipes and Ebaugh, 2002).

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If current programs can provide a picture of who will seek funding, attention should be payed to outreach to large, theologically liberal congregations, particularly in African-American communities. The experience in Texas underscores the need to be circumspect regarding lifting requirements designed to insure program safety and standards of quality.

In light of the limited documentation of program effectiveness, care must be taken not to "slant the level playing field" too far in favor of FBOs, particularly in situations where there is competition for limited resources with public services. Finally, some recognition should be given to the administrative burden

placed on state and local government agencies to monitor compliance with the provisions of charitable choice (Johnson, 2002)

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Ultimately, the idea of building a synergy between substance abuse and other social services and the religious community is one well worth the struggle to implement such programs. As CASA Director Joseph Califano remarked in the introduction to *So Help Me God: Substance Abuse, Religion and Spirituality*, “The key finding of this two-year study is this: if ever the sum

were greater than the parts it is in combining the power of God, religion and spirituality with the power of science and professional medicine to prevent and treat substance abuse and addiction. A better understanding by the clergy of the disease of alcohol and drug abuse and addiction among members of their congregations and a better appreciation by the medical profession, especially psychiatrists and psychologists, of the power of God, religion and spirituality to help patients with this disease hold enormous potential for prevention and treatment of substance abuse and addiction that can help millions of Americans and their families” (The National Center on Addiction and Substance Abuse at Columbia University, 2001).

(Note: In Virginia, general information about contracting with government agencies can be found at <http://www.dgs.state.va.us>. Specific information on funding is listed at <http://vbo.dgs.state.va.us>.)

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